



Appeal Decision

Site visit made on 24 July 2019

by Tim Crouch DipUD MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2019

Appeal Ref: APP/P1750/W/19/3225573

165 North Lane, Aldershot GU12 4SY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Akeel Rehman against the decision of Rushmoor Borough Council.
 - The application Ref 18/00734/FULPP, dated 12 October 2018, was refused by notice dated 15 February 2019.
 - The development proposed is change of use from a1 into a5 take away (rooster shack).
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Decision

1. The appeal is allowed, and planning permission is granted for change of use from a1 into a5 take away (rooster shack) at 165 North Lane, Aldershot GU12 4SY, in accordance with the terms of the application, Ref 18/00734/FULPP, dated 12 October 2018, subject to the conditions set out on the attached schedule.

Procedural Matter

2. The Council's decision notice referred to plan titled 'Existing and proposed plans, elevations and location plan Rev E dated 28.01.2019'. This was not provided as part of the appeal documentation and therefore was requested from the parties.

Main Issue

3. The main issue is the effect of the proposal on the safety of highway users.

Reasons

4. The proposal seeks to introduce a A5 takeaway within an existing parade of commercial units. To the front of the units are a number of car parking bays, as well as more further along the street. The proposal is on a corner with a residential street, which includes unrestricted parking. The junction has double yellow line parking restrictions and there are bollards preventing vehicles accessing the pavement to the side and front of the unit.
5. The proposal would require an additional parking space under the Council's Parking and Cycle Standards Supplementary Planning Document (2017) (SPD). The appellant has indicated that an unallocated bay would be available to the rear, but doesn't make any formal additional provision. Paragraph 109 of the National Planning Policy Framework (2019) (the Framework) states that in such circumstances permission should only be refused if the cumulative impacts on

the road network would be severe. Given the number of bays within the street and range of uses with differing operating times, the under provision of one space would not be considered a severe impact in this case.

6. Although the Council recognises that many potential customers will arrive on foot, it contends that the proposal would be likely to attract 'indiscriminate and obstructive' short-term parking as customers seek to park as close as possible. I am aware that there is local support of this view, however, I have not been provided with any evidence to suggest that the area suffers from high parking stress or would be dangerous.
7. There are a significant number of spaces and given the range of uses within the frontage, a turnover of vehicles. I am aware that the proposal is on a corner location but this junction has yellow lines and bollards to control parking and ensure visibility and safety for vehicle users at the junction, and pedestrians within the protected footway. Enforcement is a separate concern, as a matter for the Local Authority or the Police, and it is not considered to represent such a significant concern as to lead to a highway safety issue. I am also aware that the Highway Authority has considered the proposals and not objected.
8. The proposal would therefore have an acceptable impact on the safety of highways users. Consequently, the proposal would not be contrary to Policy CP16 of the Rushmoor Core Strategy (2011) or Policy IN2 of the Draft Submission Rushmoor Local Plan (June 2017). Taken together and amongst other objectives these require development to maintain the safe operation of the highway network.

Other Matters

9. I note concerns of some residents in relation to takeaway food and impact on health, and the proximity of a primary school. However, I have limited evidence presented to justify this issue in this case. The site is within an existing parade of units including takeaways and as such there is already a prevalence and clustering of such units. The introduction of an additional one will not significantly alter this character, or availability, and I therefore give this limited weight.
10. I have had regard to concerns over cumulative cooking smells and litter. Conditions have been imposed to ensure that the proposal is acceptable in this regard. The opening hours are also proposed to be controlled, and any harm to living conditions of neighbouring occupiers arising from the use can be investigated under separate statutory processes. Any issues in relation to vermin would be a management issue and the future occupiers will have to comply with relevant regulations in relation to fire prevention controls. None of these issues, individually or combined, warrant significant weight in relation to the proposal to lead me to a different conclusion.

Conditions

11. In addition to the standard time condition, it is necessary to impose a condition relating to the approved plans in the interests of certainty.
12. In order to protect the living conditions of neighbouring occupiers, planning conditions in relation to Extraction details, bins and recycling, opening times and hours of construction are required. The Council has suggested that a condition in relation to the extraction detail is necessary and should be

provided prior to commencement. Whilst I agree with the requirement, I consider that this is necessary prior to the opening of the operation, so have worded the condition as such.

Conclusion

13. For the reasons given above, I conclude that the appeal should be allowed subject to conditions.

Tim Crouch

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The permission hereby granted shall be carried out in accordance with the following approved drawings -:
'Existing and proposed plans, elevations and location plan Rev E dated 28.01.2019'
- 3) Prior to the first use of the hot food take-away hereby permitted, further technical details of the means of suppressing and directing smells and fumes from the premises will have been submitted to and approved in writing by the Local Planning Authority. These details shall include specifications of the extract system, anti-vibration measures and the height, position, design, materials and finish of the proposed external vent. The development shall be implemented in accordance with the details as approved prior to the first use of the hot food take-away hereby approved, and retained and maintained thereafter for the life of the development.
- 4) The proposed refuse and recycling storage area shown on 'Existing and proposed plans, elevations and location plan Rev E dated 28.01.2019' hereby approved, shall be provided prior to the first use of the hot food take-away hereby approved, and retained thereafter for the life of the development.
- 5) Construction or demolition work of any sort within the area covered by the application shall only take place between the hours of 0800-1800 on Monday to Fridays and 0800-1300 on Saturdays. No work at all shall take place on Sundays and Bank or Statutory Holidays.
- 6) The use hereby permitted shall not be open to customers outside the following times:
10:00am to 11:00pm Mondays to Saturdays and
10:00am to 10:30pm on Sundays.